IMPROVEMENTS NEEDED IN THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS' ADMINISTRATION OF THE CERTIFICATE OF LABEL APPROVAL PROGRAM

OIG-01-066 April 25, 2001

Office of Inspector General

****

United States Department of the Treasury

April 25, 2001

MEMORANDUM FOR BRADLEY A. BUCKLES, DIRECTOR
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

FROM: Marla A. Freedman /s/
Assistant Inspector General for Audit

SUBJECT: Final Audit Report – Improvements Needed in the Bureau of Alcohol, Tobacco and Firearms' Administration of the Certificate of Label Approval Program

This memorandum transmits the final report on our audit of the Bureau of Alcohol, Tobacco and Firearms' (ATF) Certificate of Label Approval (COLA) program. The COLA program was established to protect the public from false or misleading alcoholic beverage labels. Our objective was to assess the effectiveness of the program. Our audit generally covered Fiscal Years (FY) 1997 through 1998.

While we believe, for the most part, the COLA program was adequately ensuring manufacturer compliance with labeling requirements, we identified several weaknesses that could collectively impact the effectiveness of the program. Specifically, we found:

- ATF was not always consistent in its handling of applications, at times rejecting label applications because of mandatory label violations, while at other times conditionally approving applications with similar violations.
- ATF did not require applicants whose pre-import samples failed to meet Federal requirements to submit additional samples for analysis, allowing the imported beverages from which the failed samples were taken to reach the marketplace without further testing.
- The COLA/Formula Modernization (CFM) System, which tracks COLA applications for ATF, did not provide reliable data on the program.
- ATF often did not process COLA applications timely.
- ATF did not always maintain sufficient documentation supporting COLA determinations.

We recommended that ATF finalize and issue a planned label approval manual with detailed COLA operating procedures, develop procedures for processing pre-import samples, ensure information in the CFM System is updated timely and accurately, and maintain COLA documentation in accordance with ATF guidelines.

In response, ATF agreed that consistency has been a problem and has taken steps to address it. These steps include publishing a labeling manual, providing comprehensive training, establishing a quality assurance team, and reorganizing the entire COLA process. ATF also modified its CFM database to better track applications and improve the reliability of its reports. ATF plans to request funds in its FY 2002 budget to build a new database to address CFM's shortcomings. Moreover, ATF has begun retaining copies of rejected COLAs in a central file. We believe completion of these corrective actions will strengthen the COLA program.

In our draft report, we recommended that ATF consider adopting a user fee to help pay for the changes needed in the COLA program. ATF indicated in its response that it had previously considered adoption of user fees for COLA and formulas based on past Administration and Office of Management and Budget requests, but concluded that the fees were not a viable option at this time. ATF plans to continue to apply resources internally to improve the COLA process. Based on ATF's response, we are not including this recommendation in our final report.

The complete texts of ATF's response are provided in Appendixes 2 and 3.

We appreciate the courtesies and cooperation provided to our audit staff during the review. Should you have any questions or require further assistance, please contact me at (202) 927-5400, or a member of your staff may contact Donald P. Benson, Regional Inspector General for Audit (Boston), at (617) 223-8640.

Attachment

cc: Richard Hankinson
Assistant Director, Office of Inspection

EXECUTIVE DIGEST

Overview

The Federal Alcohol Administration (FAA) Act of 1935 prohibits the sale or distribution of alcoholic products unless they are properly packaged and labeled in accordance with Federal regulations. The Bureau of Alcohol, Tobacco and Firearms (ATF), under its Certificate of Label Approval (COLA) program, enforces Federally mandated label requirements by reviewing and approving all proposed alcoholic beverage labels before they are allowed in the marketplace. With limited exception, ATF issues a COLA for every alcoholic beverage product offered for sale in the United States. ATF receives more than 60,000 COLA applications each year.

Objectives, Scope and Methodology

The objective of our audit was to determine whether ATF's COLA program adequately protected the public from false or misleading alcoholic beverage labels. To accomplish this objective, we obtained and reviewed Federal labeling requirements, and assessed pre-import analysis, formula, and COLA application processing procedures. We also interviewed ATF personnel responsible for managing the COLA program, alcoholic beverage industry representatives concerning their satisfaction with the program, and state officials to identify state alcoholic beverage labeling requirements and user registration fee policies.

We performed our audit between October 1998 and August 1999 at ATF's Washington, D.C., and Rockville, MD, facilities, and reviewed labeling data from Fiscal Years 1997 through 1999. We conducted our audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and included such audit tests as we determined necessary.

Audit Results

For the most part, we found the COLA program adequately ensured manufacturer compliance with labeling requirements. However, we found some weaknesses in ATF's implementation of the program that we believe need correction to better ensure that COLA continues to be effective. Specifically, we found inconsistencies in approving and rejecting labels, a lack of follow-up on imported beverage samples that failed laboratory analysis, an unreliable tracking system, insufficient documentation supporting COLA determinations, and a lack of timeliness in processing many applications.

EXECUTIVE DIGEST

Recommendations

We recommended ATF finalize and issue a planned label approval manual. We also recommended ATF update its tracking system to better manage COLA program data, and maintain documentation in accordance with ATF guidelines.

Management Response and OIG Comment

ATF management agreed that consistency has been a problem in the COLA program and has taken several steps during the past 2 years to address this concern. These steps included publication of a labeling manual, providing comprehensive training, establishing a quality assurance team, and reorganizing the entire COLA process. ATF also plans to develop and publish detailed pre-import process operating procedures.

ATF modified its COLA/Formula Modernization (CFM) database to better track applications and improve the reliability of its reports. Additionally, by October 2003 ATF must begin offering electronic filing of COLAs and formulas. While ATF is in the early planning stages, it appears ATF may need to create a new database to receive, process, and store data on COLA and formula applications. ATF plans to request funds in its Fiscal Year 2002 budget to build a new database with CFM's shortcomings in mind.

ATF also began retaining copies of rejected COLAs in a central file.

We believe the completion of these corrective actions will strengthen ATF's COLA program. The complete texts of ATF's response are provided in Appendixes 2 and 3.

TABLE OF CONTENTS

BACKGROUND

In 1935, Congress enacted the FAA Act to regulate interstate and foreign commerce in distilled spirits, wine, and malt beverages. The FAA Act prohibits members of the alcoholic beverage industry from selling, shipping, delivering for sale or shipment, or otherwise introducing into interstate or foreign commerce any distilled spirits, wine, or malt beverages unless such products have been packaged and labeled in accordance with Federal regulations.

ATF has been charged with protecting consumers by preventing false or misleading claims on alcoholic beverage labels. ATF: (1) enforces the Government Health Warning Statement requirements; (2) prohibits unbalanced and unsubstantiated health claims, or misleading and deceptive claims; (3) monitors industry advertising; and (4) conducts investigations of suspected label fraud.

Certificate of Label Approval Program

Each alcoholic beverage product distributed for sale in the United States requires a label containing certain mandatory information about the product, its contents, and country of origin. With limited exception, ATF issues a COLA for each alcoholic beverage product. The Labeling Section within ATF's Product Compliance Branch (PCB)[1] is responsible for reviewing and approving COLAs. The COLAs help ensure consumers receive products that are safe, legal, and properly described. COLAs also help ensure that all alcoholic beverages are taxed at the proper rate.

The COLA program consists of three specific phases: pre-import analysis, formula approval, and label approval.

Pre-Import Analysis Process

ATF requires various types of imported alcoholic beverages to undergo laboratory analysis by ATF's Alcohol and Tobacco Laboratory (ATL) before importers can apply for label approval. Alcoholic beverages required to undergo pre-import laboratory analysis include liqueurs, distilled spirit specialties, malt beverage specialties, and wine specialties. ATF requires importers to submit a complete list of ingredients and a statement detailing the method of manufacture along with pre-import samples. A product may fail laboratory analysis if it contains prohibited ingredients, an excess amount of limited ingredients, or if it is over/under proof or over/under filled. During Fiscal Years (FY) 1997 and 1998, the ATL processed 988 pre-import samples.

[1] On March 27, 2000, ATF reorganized the Product Compliance Branch and changed the name to the Alcohol Labeling and Formulation Branch. For the purpose of this report, we will still refer to this Branch as the Product Compliance Branch, or PCB.

Upon completion of the laboratory analysis, the ATL sends test results to the PCB's Formula Section. The Formula Section then issues a pre-import letter to notify applicants about their test results. Pre-import letters provide importers with the proper class and type designation for their products and indicate whether their samples passed pre-import analysis or whether they must submit another sample for additional laboratory analysis. Applicants must include a copy of their pre-import letters with all correspondence they send to the PCB (including COLA applications) for any products tested by the ATL.

Formula Process

ATF requires alcoholic beverage producers who manufacture certain products, such as domestically produced distilled spirits, flavored wines, and malt beverages, to submit their products' formula for approval before they can submit a COLA application. When completing a formula application, an applicant must list all ingredients used to produce its alcoholic beverage, and describe its method of manufacture. Formula Section personnel review formula applications to verify all ingredients have been approved for human consumption by the U.S. Food and Drug Administration (FDA). They also verify all flavors used to produce alcoholic beverages have been certified by ATL. Between FYs 1997 and 1998, the Formula Section processed 1,313 formula applications.

Label Approval Process

After undergoing any required pre-import analysis and/or formula approval, the alcoholic beverage labels, with limited exceptions, must be approved by ATF. Applicants submit their labels to ATF using ATF Form 5100.31, *Application for and Certification/Exemption of Label/Bottle Approval*. This form requires applicants to disclose information about their alcoholic beverage products, and requires them to attach an actual copy of the label which will appear on the alcoholic beverage container. Labeling Section personnel review applications to ensure alcoholic beverage labels contain all required information and adhere to regulatory requirements.

OBJECTIVES, SCOPE AND METHODOLOGY

The objective of our audit was to determine whether ATF's COLA program adequately protected the public from false or misleading alcoholic beverage labels. To accomplish this objective, we obtained and reviewed laws and regulations under the FAA Act and documented Federal labeling requirements. We obtained and reviewed copies of ATF's *Compliance Matters*, alcohol and tobacco newsletters, and industry circulars. We documented pre-import analysis, formula, and COLA application processing procedures. We interviewed personnel with ATF's Alcohol and Tobacco Programs Division, Office of Chief Counsel, and Office of Training and Professional Development to determine their role in the COLA program.

We visited ATF's Alcohol and Tobacco Laboratory in Rockville, MD, to assess the pre-import analysis process. We visited ATF's Technical Services Office in Philadelphia, PA, to determine its role in the COLA approval process. We interviewed personnel at the U.S. Customs Service's Port of Philadelphia, PA, to determine how shipments containing imported alcoholic beverage products are processed. We also interviewed 18 alcoholic beverage industry representatives about their level of satisfaction with ATF's COLA program. Additionally, we interviewed officials in 10 states to identify state alcoholic beverage labeling requirements, determine whether the states have adopted a user charge for labeling, and to identify fee amounts. In addition, we compared state alcoholic beverage labeling requirements with Federal requirements.

We performed our audit fieldwork between October 1998 and August 1999. The period generally covered by our audit was FYs 1997 and 1998. However, we also reviewed a sample of COLA applications processed during FY 1999 because ATF personnel did not maintain documentation on all "expedited" and rejected COLA applications processed during FYs 1997 and 1998.

We conducted our audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and included such audit tests as we determined necessary.

AUDIT RESULTS

Finding 1. ATF Inconsistent in Handling of Label Applications

ATF did not always treat label applications that had similar label violations in the same way. For example, in 17 of 100 *approved* labels we reviewed from FY 1998, ATF found violations of mandatory label information, but "conditionally" approved the labels. At the same time, 12 of 49 *rejected* label applications we reviewed contained similar violations. These inconsistencies could give the appearance of preferential treatment. Additionally, labels may be allowed in the marketplace that do not meet Federal labeling requirements.

Recommendation

1. The ATF Director should ensure that the planned label approval manual is finalized and issued. The manual should provide for appropriate controls to ensure consistent determinations are made on COLA applications, such as supervisory reviews of the work of label specialists. Furthermore, personnel involved in the label approval process should receive appropriate training in the manual requirements.

Management Response and OIG Comment

ATF management agreed consistency has been a problem in the COLA program, but added that some inconsistency was inherent due to the nature of the laws and regulations regarding mandatory label information. Furthermore, ATF acknowledged that inconsistent application of labeling regulations is a significant concern of industry members. In the past 2 years, ATF has taken steps to address this concern, including publication of a labeling manual. In August 1999, a 9-day comprehensive training class was held for all COLA specialists. The class included detailed instructions on label requirements found in applicable laws, regulations, rulings, and ATF policies.

During March 2000, ATF implemented the reorganization of the entire COLA process as recommended by the Beverage Alcohol Streamlining Team (BAST).[2] The new business processes were partly designed to address inconsistencies. As inconsistencies have been noticed, written policies have been created, taught to all COLA specialists, and maintained in manuals by all COLA specialists.

[2] The BAST was established by ATF to conduct a through review of PCB's business processes.

ATF also established a Quality Assurance/Output team that is responsible for conducting quality checks on work items and identifying inconsistencies. Furthermore, ATF published the final three sections of the Beverage Alcohol Manual. The manual is a comprehensive "plain language" guide for industry members and ATF employees on the labeling laws and regulations for distilled spirits wine and malt beverages.

In the future, ATF plans call for implementation of monthly "roll call" training on label and formula issues, increased second review of COLAs, and creation of a formal formula specialist training class.

We believe that no further actions are needed to address this recommendation. ATF's publication of a labeling manual, establishment of a Quality Assurance/Output team, and increased training should improve the consistency of its label determinations.

Details

Mandatory Label Requirements

Mandatory label requirements are included in Title 27 Code of Federal Regulations (CFR), Section 4.32 (wine), Section 5.32 (distilled spirits), and Section 7.22 (malt beverages). Although the label requirements vary slightly among the three types of beverages, certain information must be on each label. This information includes the brand name, class and type designation, alcohol content, name and address of the importer or producer, presence of any "FD&C Yellow No. 5" coloring material, and the presence of sulfites. In addition, label appearance must meet certain standards related to the size of the print and the contrast of the print background.

Approved COLAs Missing Mandatory Label Information

We reviewed 100 COLA applications that ATF approved during FY 1998 to assess whether COLA specialists approved the labels in accordance with Federal labeling regulations. We determined whether each label contained the following mandatory label information: brand name, class and type designation, name and address of producer or importer, alcohol content, net contents, country of origin, sulfite declaration (if applicable), and Government Health Warning Statement.

Furthermore, if a wine label was vintage dated, we determined whether the label indicated a designation of origin. We also reviewed label applications to determine whether they were legible (clear and suitable for microfilming), signed by the applicant or authorized agent, and contained serial number information.

We found ATF appropriately determined that 80 of the 100 approved COLAs (80 percent) contained the required mandatory labeling information and approved them for the marketplace. However, ATF approved or "conditionally" approved the remaining 20 COLA applications despite violations of label requirements.

For 3 of these 20 COLA applications, the applications were approved even though applicants had either omitted or provided incorrect information regarding importer name and address, or country of origin. For example, one label listed two countries of origin. The remaining 17 labels, which ATF conditionally approved, had one or more violations in the following areas:

- Alcoholic content statement (2 labels).
- Name of the importer/bottler (6 labels).
- Address (3 labels).
- Print legibility (5 labels).
- Print size (3 labels).
- Country of origin statement (1 label).

In each of these instances, COLA specialists approved the COLAs but annotated on the applications that applicants must get their labels revised the next time they had new ones printed.

Similar Violations in Approved and Rejected COLAs

We compared the violations ATF found in a sample of 49 rejected COLAs[3] with the violations COLA specialists identified on the above 17 conditionally approved COLA applications. Our comparison noted that 12 of the 49 rejected labels contained violations that were similar to the violations on the conditionally approved COLA applications. For example, we found print size, legibility, and importer/bottler information violations on both the conditionally approved and rejected labels. The following table presents a comparison of the extent to which several label violation categories appeared in both the approved and rejected label application files:

[3] While 48 of the 49 applications appeared to be properly rejected, one COLA application was rejected because a picture of a man's face on the label was unclear. The label specialist's supervisor said the label should not have been rejected for this reason.

Table 1: Similar Label Violations for Conditionally Approved and Rejected Labels

Label Violation	Conditionally Approved COLAs	Rejected COLAs
➢ **Print Size** – Script, type, or printing of mandatory information on label was not sized in accordance with Federal labeling regulations.	3	8
➢ **Legibility** – Label was not designed so all statements were readily legible and on a contrasting background.	5	6
➢ **Importer/Bottler Information** – Importer/Bottler information on label did not agree with information on applicant's basic permit.	6	1

Furthermore, we noted that for 2 of the rejected applications, ATF did not provide the applicants with sufficient information about why their applications were rejected. Applicants need this information to make appropriate label corrections.

Customers Cited Inconsistencies as a Problem

We interviewed 18 alcoholic beverage industry representatives to determine current customer satisfaction with ATF's COLA program. While industry representatives were often satisfied with services provided by ATF, several indicated areas in which they were dissatisfied. Dissatisfied respondents believed ATF labeling specialists:

- continued to interpret the law inconsistently when processing COLA applications (6 respondents),
- took too long to process COLA applications (5 respondents),
- did not provide sufficient information on *Correction Sheets* to indicate why applications had been rejected (1 respondent),
- maintained work schedules which made them unavailable to answer questions (1 respondent), and
- did not return telephone calls timely (1 respondent).

In addition to our limited survey, ATF received customer feedback in a self-initiated 1996 survey of 1,382 industry members. Inconsistent interpretation of the law was indicated as a problem by nearly one third of the respondents. The complaints included the following:

- language in the regulations was not clear (31 percent),
- ATF did not apply its labeling regulations consistently throughout the alcohol beverage industry (31 percent),
- ATF personnel did not return phone calls within 24 hours (27 percent),
- ATF employees did not explain things clearly (20 percent),
- information provided by ATF was not accurate (16 percent), and
- information received on label correction sheets could not be understood (14 percent).

In 1995, we also reported several industry members felt ATF specialists interpreted the law inconsistently.[4] In following up on a Hotline complaint received by the Office of Inspector General concerning the ATF COLA program, the auditors found that 8 of 12 COLA applicants interviewed complained that ATF specialists interpreted the law inconsistently. The auditors concluded that ATF's label approval process lacked adequate guidelines to ensure consistency in label approval. ATF responded that it would issue a formal label approval manual to replace the guidance that existed in separate memoranda, counsel opinions, circulars, and other publications. However, when we began our fieldwork in October 1998, ATF still had not completed the manual.

[4] *Bureau of Alcohol, Tobacco, and Firearms: Alleged Preferential Treatment in Label Processing* (OIG-95-065; April 18, 1995).

Finding 2. Follow-up Samples Not Requested on Imported Products that Failed Initial Laboratory Testing

ATF requires certain imported alcoholic beverages—rum, vodka, gin, brandy, non-grape wine, and specialty products—to undergo pre-import laboratory testing. The products are tested for proof, fill, labeling, limited and prohibited ingredients, contaminants, and other requirements. ATF tests these products for classification and tax purposes, and to ensure the ingredients are safe for human consumption.

We reviewed test results on 23 distilled spirits products submitted for pre-import laboratory analysis. We found that, while 16 of the products did not meet ATF's acceptable proof levels, ATF formula specialists did not request additional samples. The formula specialists merely cautioned the importers in letters to 14 of the 16 cases, and did not even mention the violations in the remaining 2 cases. Five of the 16 distilled spirit products had more alcohol than their labels indicated, while 11 contained less alcohol.

Recommendation

1. The ATF Director should ensure that detailed operating procedures are developed to ensure pre-import samples are processed in accordance with ATF policies and regulations. The procedures should identify when applicants are required to submit a second alcoholic beverage sample for laboratory analysis. The procedures should also provide for supervisory review of formula specialists' work to ensure they properly analyze and convey pre-import laboratory tests results to applicants.

Management Response and OIG Comment

ATF management acknowledged that the pre-import sample deficiencies in alcohol content and fill were not always noted in ATF's correspondence with the importers. Furthermore, ATF agreed that these discrepancies should always be noted in the correspondence to the importers. However, it is ATF's position that while samples that fail to comply with the established tolerances for alcohol and fill are regulated by ATF, they are not essential to their primary purpose for conducting chemical analysis, i.e. classification and consumer safety. ATF felt that noting these deficiencies in a written response to industry members was sufficient.

ATF commented that the major beverage importers trade association has criticized ATF for what the importers believe is disparity in ATF's treatment

of imported and domestic products. Although the major beverage importers trade association does not question ATF's need to test various imported products, the association felt some of ATF's policies placed undue hardship and time constraints on importers that are not placed on domestic producers at the critical time in product marketing. Each pre-import lab analysis can take up to 30 days and the analysis must be completed before the product can be brought to market. Partly in deference to this concern, ATF limits re-testing of imported products to situations where classification or safety is involved and simply cautions importers on less severe problems, such as alcohol content and fill. Also, ATF's Beverage Alcohol Sampling Program, which tests samples obtained from the marketplace, is designed, in part, to follow up on imported products that have deficiencies found during the pre-import process.

As part of the March 2000 BAST reorganization, ATF's Quality Assurance Output team now conducts second reviews of all formula work before it is returned to the industry. This includes letters sent in response to pre-import and laboratory analysis applications. The second reviews help to ensure consistency in ATF's responses and that pre-import laboratory test results are properly analyzed and conveyed to the applicants.

ATF management also reported that, despite multiple recruitment efforts, the Formula Section Chief position has remained vacant. Furthermore, due to the recent reorganization, this position no longer exists. However, the duties (along with those of the Label Section Chief) have been assumed by two new positions. These positions have been recently filled, but one person will not report until June 3, 2001. Once these positions are permanently filled, there will be more supervisory oversight over the work of the formula specialists.

On February 28, 2001, the Assistant Director, Office of Alcohol and Tobacco, issued an addendum to the Director's response to clarify ATF's position on operating procedures. ATF will develop and publish procedures that identify when applicants must submit a second sample for laboratory analysis and a process to ensure that pre-import laboratory test results are properly communicated to applicants. ATF plans to publish these procedures by February 2002. The complete text of ATF's Addendum is provided in Appendix 3.

We believe completion of these planned corrective actions will strengthen ATF's pre-import process.

Details

Types of Pre-Import Violations

We reviewed test results for products submitted for pre-import analysis during FYs 1997 and 1998, and found that ATF identified 649 violations. The

violations largely involved proof and fill levels. Of the violations identified during that 2-year period, 242 violations (37 percent) were for "overproof " (too much alcohol) and 241 violations (37 percent) were for "underproof " (not enough alcohol). The table below summarizes the violations identified during the 2-year period.

Table 2: Pre-Import Sample Violations (FYs 1997-1998)

Reason For Rejection	Pre-Import Violations			
	FY 1997	FY 1998	Totals	Percentage
Overproof	138	104	242	37
Underproof	122	119	241	37
Overfill	5	1	6	1
Underfill	19	18	37	6
Labeling	9	7	16	2
Limited Ingredients	8	5	13	2
Prohibited Ingredients	24	7	31	5
Contaminants	1	0	1	-
Nonstandard Fill	30	27	57	9
Headspace	4	1	5	1
Totals	360	289	649	100

Source: Chief, ATL

In addition, to determine what steps ATF took upon finding violations, we reviewed the test results for 23 distilled spirits products submitted for pre-import testing between February and November 1998. Sixteen of the 23 products, or about 70 percent, did not meet an acceptable proof level as indicated on the label.

However, ATF did not request additional samples. Instead, in letters to importers in 14 of the 16 cases, ATF cautioned the importers concerning their results. Thirteen of the letters told applicants that proof/alcohol content must be exactly as stated on the label, while one letter warned the importer that any samples ATF obtained after importation which tested below accepted levels would be labeled as diluted and subject to recall. ATF did not cite the specific violations in letters to importers for the remaining two cases.

Also, 4 of the 23 distilled spirit products in our sample, or 17 percent, had fill levels which fell outside ATF's acceptable 2 percent tolerance rate. However, only 1 of the 4 pre-import letters ATF issued to the applicants indicated they had to submit another sample for fill testing. The pre-import letters the ATF Formula Specialist sent to two applicants only indicated that they may submit an additional sample to ATF for fill testing. The pre import letter ATF issued to the remaining applicant did not mention the fill level violation.

Further, we noted that applicants often submitted pre-import samples in non-standard containers, which precluded ATL from performing fill testing. Ten of the 23, or 43 percent, of the pre-import letters we reviewed indicated applicants submitted their alcoholic beverage samples to ATF for pre-import analysis in non-standard containers. We questioned ATF officials about why they allowed applicants to submit samples in non-standard containers, since ATL conducts fill testing as part of its pre-import analysis. We were told that the current policy allows ATL to reject samples submitted in standard containers, but precludes the laboratory from rejecting samples submitted in non-standard containers. In effect, this approach potentially punishes importers who submit samples in standard containers.

ATF personnel were unable to provide us written procedures documenting the roles and responsibilities of the PCB Formula Section and the ATL in the pre-import process. Additionally, several issues of ATF's newsletter, *Compliance Matters*, identified various types of imported alcoholic beverage products that ATF either required or no longer required to undergo laboratory analysis prior to label submission. However, we could not reconcile the various lists, and had to speak to ATF personnel to determine which products ATF currently requires to undergo pre-import analysis.

Furthermore, we found ATF management did not adequately monitor formula specialists to ensure that they process pre-import letters in a consistent manner. We found no evidence to indicate ATF management reviewed formula specialists' work to ensure pre-import letters properly disclosed laboratory test results and recommended remedial actions when product samples did not meet Federal requirements. The Formula Section Supervisor's position was vacant at the time of our review. Lack of periodic supervisory reviews could contribute to the inconsistency by specialists in processing pre-import letters.

AUDIT RESULTS

Finding 3. ATF's COLA Tracking System Contained Inaccurate and Incomplete Program Documentation

ATF's COLA/Formula Modernization (CFM) System contained inaccurate and incomplete program documentation. We found COLA applications classified as "open" in CFM were actually approved, rejected, or withdrawn. PCB personnel failed to update the CFM database to reflect the current status of these COLA applications. The inaccuracy of ATF's CFM database may also have resulted in under-reporting the number of COLA applications processed by the COLA specialists within ATF's 9-calendar day processing standard.

Recommendation

1. The ATF Director should ensure that the information in ATF's COLA/Formula Modernization System is updated timely and accurately to better manage the COLA.

Management Response and OIG Comment

ATF management agreed that the CFM does not always provide adequate and accurate information regarding label and formula applications. In the past 2 years, ATF has addressed this area of concern. As part of the BAST reorganization, ATF made several modifications to the CFM database. These included adding the ability to track applications by team, and storing and tracking customer service inquiries. ATF also reported that it addressed inaccuracies in the reports generated by the CFM. However, ATF noted that improvements were still needed in the reliability of the reports.

As mandated by law, ATF must offer electronic filing of COLAs and formulas by October 2003. ATF is in the early stages of planning for this, and may need to create a new database to receive, process, and store data on COLA and formula applications. At a minimum, ATF will need to update CFM. ATF plans to request funds for this effort and other electronic Government initiatives in its FY 2002 budget. The intention is to develop a new database to address the shortcomings in CFM.

In March 2000, ATF hired a Program Analyst to maintain CFM and perform error resolution on the data that it contains. This has resulted in a significant improvement in the timeliness and reliability of the data. Future plans include hiring an additional Program Analyst to assist with this work.

The Quality Assurance/Output Team has also performed routine audits of CFM and its files, which has improved ATF's ability to track applications.

ATF further stated that COLA processing turn-around time has also improved since our audit fieldwork was performed. In 1999, ATF received 68,000 COLA applications and processed 75 percent within 9 calendar days. In 2000, it received 74,000 COLA applications and processed 70 percent of them within 9 days. ATF also commented that in recent years processing time has been affected by the loss of experienced employees, time devoted to training new employees, inability to fill supervisory positions, and a steady increase in the number of COLA applications being received.

We believe completion of these planned corrective actions should strengthen ATF's accountability over COLA applications.

Details

Improved Controls Needed Over ATF's COLA Application Tracking System

We compared two statistical reports generated by the CFM system to evaluate the database's accuracy in identifying the total number of COLA applications received during FYs 1997 and 1998. The two reports we compared were the *Summary Applications Statistical Report* and the *Turnaround Summary Report*. The *Summary Applications Statistical Report* provided statistical information about the average length of time it took to process COLAs, and the mode by which COLAs entered the PCB (via the front desk, overnight mail, regular mail, or facsimile). The *Turnaround Summary Report* provided statistical information on COLA processing turnaround time and the total number of COLA applications the PCB received.

Each of these reports listed different figures for the total number of COLA applications the PCB received during FYs 1997 and 1998, as shown in Table 3 below. These amounts differed by 5,979 and 194 for the 2 years, respectively, as highlighted in the table.

Table 3: Differences Between Two Reports in Numbers of COLA Applications Received in FYs 1997 and 1998

COLA Application Receipt Method	FY 1997		FY1998	
Summary Application Statistics Report				
Over the Counter	31,721		33,992	
Mail-in	17,830		21,346	
Facsimile	3		1	
Overnight Express	8,268		11,258	
Total		57,822		66,597
Turnaround Summary Report		63,801		66,791
Difference		-5,979		-194

While testing the accuracy of the CFM database, we asked ATF to run a report that listed all COLA applications which had already exceeded the PCB's 9-calendar day processing standard and which had an "open" status. From this list, we selected a sample of 50 COLA applications. We and ATF employees physically searched the PCB operations area in an effort to locate these 50 COLAs. However, we could find only 17 of the 50 selected applications. None of these 17 COLA applications were actually "open" as indicated on the CFM database report. Instead, 13 applications had been approved, 3 applications had been rejected, and the remaining application had been withdrawn. The remaining 33 applications could not be found. Table 4 below summarizes reasons offered by PCB personnel to explain why they could not locate the 33 applications.

Table 4: Reasons ATF Officials Offered for Missing COLA Applications

Reasons	Number of COLAs
➢ Application withdrawn and returned to applicant and not logged out	3
➢ Application mailed back to applicant and not logged out	2
➢ Application lost and resubmitted	1
➢ No evidence application mailed back to applicant	5
➢ Applicants contacted and stated they could not locate COLA application	7
➢ No explanation offered by PCB personnel	15
Total	33

Timeliness Standard Often Not Met

ATF also often failed to meet its 9-calendar day COLA application processing standard. Between October 1, 1996, and September 30, 1998, the Labeling Section received 130,592 COLA applications and processed 62 percent (80,318) within PCB's 9-calendar day standard, as shown below. Approximately 45,000 applications had not been processed within the 9-calendar day standard, including over 2,800 applications received in FY 1997 that had not been processed a year later.

Table 5: COLA Label Application Processing Times in FYs 1997 and 1998

COLAs	1997	1998	Total	Percentage
Received	63,801	66,791	130,592	100.0
Processed	60,976	64,371	125,347	96.0
Processed within ATF's 9-Calendar Day Processing Standard	35,068	45,250	80,318	61.5
Not Processed within ATF's 9-Calendar Day Processing Standard.	25,908	19,121	45,029	34.5
	60,976	64,371	125,347	96.0
Still in Process as of September 30, 1998	2,825	2,420	5,245	4.0

Volume 93-1 of ATF's *Compliance Matters* newsletter advised alcoholic beverage industry members the PCB's targeted-turnaround time for processing label applications was 9 calendar days, or the equivalent of 6 to 7 workdays. Volume 95-2 of ATF's *Compliance Matters* newsletter further advised alcoholic beverage industry members the PCB regularly encountered label submissions and correspondence that required more time to review. Some situations that affected the PCB's ability to meet its target turnaround time involved new products and difficult questions about policy interpretations. The Supervisor, Labeling Section, indicated detailed research and legal reviews also resulted in unavoidable delays in meeting PCB's 9-calendar day processing standard.

Additionally, Volume 94-3 of ATF's *Compliance Matters* newsletter indicated the PCB would notify label submitters by phone, facsimile, or in writing if the process was going to exceed the 9-calendar day target. The Supervisor,

Labeling Section, stated the PCB never implemented this notification system because management felt it would only cause further COLA processing delays.

Study Found Need for Improved Database

A recent analysis by ATF's BAST of PCB operations also supports the need for an accurate database. The BAST found the CFM database did not provide accurate work distribution information, document tracking, cycle times, or performance measures. Additionally, the BAST identified significant problems with open label applications. Specifically, the BAST report indicated its members could not locate five percent of the COLA applications entered into the CFM database because they were not filed, had been improperly filed, had not been properly logged out, or contained erroneous data.

AUDIT RESULTS

Finding 4. COLA Program Documentation Not Maintained

ATF did not retain sufficient documentation to support COLA program determinations. Specifically, the PCB did not retain documentation submitted by alcoholic beverage industry members for "expedited" COLA requests. In addition, COLA specialists routinely destroyed rejected COLA applications and supporting correction sheets within 90 days. PCB managers also did not track the reasons why specialists rejected COLA applications. Furthermore, ATF did not always maintain documentation to support rejected formula applications.

Recommendation

1. The ATF Director should ensure that COLA program documentation (applications for approval, notices of denial, and related documents) is maintained in accordance with ATF Order 1345.1, *Records Management Program and Records Control Schedule*. The Order requires original paper label applications to be retained 25 years. If this retention period is considered unrealistic or unreasonable, the Order should be modified.

Management Response and OIG Comment

ATF management reported that part of the March 2000 BAST reorganization involved the creation of a Customer Service/Input Team. This team is responsible for, among other things, screening and sorting all applications. As part of this function, the team reviews, approves/denies, and tracks all requests for expedited label approval. ATF has also published stricter guidelines and more stringent criteria for approval of an expedite request.

In addition, ATF reported it has stored 25 years of original approved COLAs at the Washington National Records in Suitland, Maryland. As part of the March 2000 BAST reorganization, ATF began retaining all ATF copies of rejected COLAs in a central file for use by its Customer Service specialists when responding to inquiries regarding rejected applications. ATF intends to maintain these files for 3-5 years. In addition, ATF plans to amend ATF Order 1345.1 to clearly reflect the retention period for rejected COLAs.

If fully implemented, we believe the corrective actions will meet the intent of the recommendation.

Details

Documentation on Expedited COLA Requests

PCB personnel did not retain documentation to support expedited COLA requests approved during FYs 1997 and 1998. Additionally, ATF's CFM system was not programmed to identify expedited COLAs or accumulate data on the number of expedited requests received and processed. As a result, PCB management does not have an effective mechanism to monitor expedited COLA requests nor identify members of the alcoholic beverage industry who may be abusing the expedite process.

Under certain situations, the PCB grants industry members expedite status for their COLA applications. To obtain an "expedite," the applicant must complete a *Front Desk Coversheet for Expedites* form and submit documentation such as bottling schedule, shipping documents, and other forms, that establishes the need for ATF to expedite the COLA application. For example, an importer might need an expedited COLA if the importer did not have much time before a shipment of beverage alcohol was due to reach the United States. The U.S. Customs Service requires importers to submit approved COLAs with their entry paperwork before allowing alcoholic beverages to enter the country. ATF generally approves importers' expedite requests when they are accompanied by a shipping schedule.

The Chief, PCB, must approve all expedite requests. Once a COLA application has been granted expedite status, it is immediately given top priority and assigned to a labeling specialist. The labeling specialist then processes that COLA application before working on applications that do not have an "expedited" status.

When we began our review in October 1998, PCB management expressed concerns that certain industry members may be abusing the PCB's expedite process. On January 26, 1999, the Supervisor, Labeling Section, issued a memorandum to industry members restating PCB's expedited COLA approval process. The memorandum indicated the PCB would no longer process expedite requests unless they were accompanied by supporting documentation, such as a shipping document, a bill of lading, and/or a bottling schedule.

During our evaluation of the PCB's expedited COLA process, we asked ATF personnel to provide us with data on all the expedite requests the PCB processed during the scope of our review (FYs 1997 and 1998). We were told that the CFM system was not programmed to track expedite requests separately from regular COLA applications. As a result, statistical information was not available on the number of expedited COLAs processed during this timeframe.

ATF personnel told us that the *Front Desk Coversheet for Expedites* is kept for only a few months before being destroyed. In addition, supporting documentation is returned to applicants after their expedited COLA requests had been approved.

Maintaining information on expedite requests would help ATF management assess labeling specialists' performance. It would also allow ATF management to determine whether certain industry members might be abusing the PCB's expedite process.

Rejected COLA Application Documentation

COLA specialists destroyed rejected COLA applications within 90 days after rejecting them. As a result, we could not evaluate the reasons why labeling specialists rejected COLA applications. We believe ATF should require labeling specialists to maintain documentation on rejected COLAs:

- to identify common errors made by COLA applicants and help avoid them on future applications; and
- so ATF managers know why PCB employees rejected COLA applications, which would help the managers ensure employees consistently interpreted and applied the law.

ATF notified industry members that, effective March 1, 1994, if the PCB rejected a label, ATF would keep one application for its records, along with a copy of the correction notice (ATF Form 5190.1). This would enable ATF to better address industry members' questions and concerns. ATF requires applicants to submit revised label applications in duplicate with a copy of the correction sheet attached. This was highlighted in ATF's publication *Compliance Matters 94-1*.

We spoke to several COLA specialists to determine if they retained documentation on rejected COLA applications. Specialists indicated they maintain documentation when an application is initially rejected but keep it on hand for only 30 to 90 days because of space limitations.

Formula Application Documentation

ATF requires members of the alcohol beverage industry to submit formula applications and ingredient lists for distilled spirit products, and flavored wine and malt beverage products before allowing them to apply for label approval. ATF formula specialists review this information to verify flavors used to produce alcoholic beverages have been certified by ATL, and the U.S. Food and Drug Administration (FDA) has approved all ingredients for human consumption.

During FYs 1997 and 1998, formula specialists rejected 277, or 21 percent, of the 1,313 formula applications they processed, as shown in the following table. While the CFM system provided data on the number of formula applications processed and rejected, the system did not capture the reasons why formula specialists rejected applications. However, formula specialists maintained files that contained documentation on processed formula applications.

Table 6: Formula Applications Processed in FYs 1997 and 1998

Formula Application Type	Number Processed	Number Rejected	Percentage
Malt Beverage	370	43	12
Spirit	483	99	21
Wine	460	135	29
Total	1,313	277	21

Source: CFM Turnaround Detail Report

We selected a sample of 20 formula applications processed during FY 1998 to determine why ATF rejected them. Formula Section personnel were unable to locate one of the selected rejected formula applications. Our review of the remaining 19 applications showed supporting documentation was not maintained on 4 applications to show why they had been rejected. According to the Formula Specialist who had processed the applications, the documentation was either passed on to the Labeling Section or returned to the applicants.

ABBREVIATIONS

ATF	Bureau of Alcohol, Tobacco and Firearms
ATL	Alcohol and Tobacco Laboratory
BAST	Beverage Alcohol Streamlining Team
CFM	COLA/Formula Modernization
COLA	Certificate of Label Approval
FY	Fiscal Year
PCB	Product Compliance Branch

MANAGEMENT RESPONSE

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, DC 20226

FEB - 7 2001

DIRECTOR

804000:SBS
8100

MEMORANDUM TO: Assistant Inspector General for Audit

FROM: Director

SUBJECT: Draft Report on the Bureau of Alcohol, Tobacco and Firearms Certificate of Label Approval Program, Dated December 5, 2000

This refers to your request of December 5, 2000, for comments on the Draft Report (Number OIG-99-009), Improvements Needed in the Administration of the Bureau of Alcohol, Tobacco and Firearms' Certificate of Label Approval Program.

This memo addresses each of the five recommendations made in association with Findings 1-5 described in your draft report. Please bear in mind that in March 2000, subsequent to the completion of your audit, the work group responsible for the Certificate of Label Approval (COLA) program underwent a significant reorganization. This reorganization addressed many of the issues identified during your review. In reference to the five recommendations made in your draft report, we address each proposed action individually as follows:

1. **The ATF Director should ensure that the planned label approval manual is finalized and issued. The manual should provide for appropriate controls to ensure consistent determinations are made on COLA applications, such as supervisory reviews of the work of label specialists. Furthermore, personnel involved in the label approval process should receive appropriate training in the manual requirements.**

   We agree that inconsistency has been a problem in the COLA program. However, some of this is inherent due to the nature of the laws and

MANAGEMENT RESPONSE

Assistant Inspector General for Audit

regulations regarding mandatory label information, e.g., mandatory information must be "contrasting," "legible," "in direct conjunction with," or may not be "misleading." All these requirements call for judgement on the part of the reviewer and cannot be easily defined by a ruling or policy.

You note in the draft report that some COLAs are given "conditional" approval, despite "violations." It has been the long-standing policy of ATF to give conditional approval for minor errors, e.g., a piece of mandatory information is present, however it is 4 millimeters instead of the required 3 millimeters, or when mitigating circumstances are present, e.g., an industry member has moved and requests to use-up a stock of labels that display the old address. ATF gives conditional approval only when we feel that consumers will not be mislead about the identity of the product and if the industry member who is responsible for this product being in the U.S. market can be adequately determined. It is our opinion that reversing our policy of giving conditional approvals would cause undue economic hardship to industry and would increase the number of applications that would need to be rejected and resubmitted and would increase the number of requests for expedited approval.

In this section of the draft report you identify a label that was incorrectly approved with two countries of origin. According to U.S. Customs regulations, (which govern in this area) a product may have two countries of origin and in fact must display both if this is the case.

We do recognize that ATF has applied the label regulations inconsistently at times, and that this is a significant concern of our industry members. In the past 2 years we have taken several steps to address this concern, including publication of a labeling manual.

MANAGEMENT RESPONSE

Assistant Inspector General for Audit

In August 1999, we held a 9-day comprehensive training class for all current COLA specialists. This class included detailed instruction on label requirements found in applicable laws, regulations, rulings, ATF policies, etc. This class will be held again as new COLA specialists are hired.

In March 2000, we implemented the reorganization of the entire COLA process as recommended by our Beverage Alcohol Streamlining Team (BAST). The new business processes were designed partly to address inconsistencies. As inconsistencies have been noticed, we have created written policies that are taught to all the COLA specialists and are maintained in manuals by all COLA specialists.

We now have a Quality Assurance/Output team responsible for conducting quality checks on work items and identifying inconsistencies.

During the year 2000, we published the final of three sections of our Beverage Alcohol Manual (BAM). This manual is a comprehensive "plain language" guide for industry members and ATF employees on the labeling laws and regulations for distilled spirits, wine and malt beverages.

Future plans call for implementation of monthly "roll call" training on label and formula issues, increased second review of COLAs, and creation of a formal formula specialist training class.

2. **The ATF Director should ensure that detailed operating procedures are developed to ensure pre-import samples are processed in accordance with ATF policies and regulations. The procedures should identify when applicants are required to submit a second alcoholic beverage sample for laboratory analysis. The procedures should also provide for supervisory review of formula specialists' work to ensure they properly analyze and convey pre-import laboratory tests results to applicants.**

MANAGEMENT RESPONSE

Assistant Inspector General for Audit

As noted in your report, ATF conducts laboratory analysis of various imported beverage alcohol products to ensure proper classification and to ensure that ingredients are safe for human consumption. You noted that when samples fail to comply with the established tolerances for alcohol content and fill we do not ask for follow-up samples. It is our position that although these factors are regulated by ATF, they are not essential to our primary purposes for conducting chemical analysis, i.e., classification and consumer safety. We feel that noting these deficiencies in our written response to industry members is sufficient.

The major beverage importers trade association has criticized ATF for what they feel is disparity in our treatment of imported products and domestic products. Although they do not question our need to test various imported products they feel that some of our policies place undue hardships and time constraints on importers that are not placed on domestic producers at the critical time in product marketing. Each pre-import lab analysis can take up to 30 days to turn around and the analysis must be completed before the product can be brought to market. Partly in deference to this concern, we limit re-testing of imported products to situations where classification or safety is involved and simply caution importers on less severe problems, such as alcohol content and fill. Also, our Beverage Alcohol Sampling Program (testing of samples found in the market place) is designed, in part, to follow up on imported products that have deficiencies found during the pre-import process.

You noted that deficiencies in alcohol content and fill were not always noted in our correspondence with the importers. We agree that these discrepancies should always be noted in our correspondence.

MANAGEMENT RESPONSE

Assistant Inspector General for Audit

As part of the March 2000 BAST reorganization, our Quality Assurance/Output Team now conducts second reviews of all formula work before it is returned to industry. This includes letters sent in response to pre-import and lab analysis applications. This helps ensure consistency in our responses and that we are properly analyzing and conveying pre-import laboratory tests results to applicants.

The Formula Section Chief position has remained vacant since your inspection, despite multiple recruitment efforts. Due to our recent reorganization, this position no longer exists. However, the duties (along with those of the Label Section Chief) have been assumed by two new positions. We have recently filled these positions but one person will not report until June 3, 2001. Once these positions are permanently filled, there will be more supervisory oversight over the work of the formula specialists.

3. **The ATF Director should ensure that information in ATF's COLA/Formula Modernization System (CFM) is updated timely and accurately to better manage the COLA.**

We agree that CFM does not always provide adequate and accurate information regarding label and formula applications. In the past 2 years we have addressed this area of concern. As part of our BAST reorganization, we made some modifications to the CFM database. These included adding the ability to track applications by teams and storing and tracking customer service inquiries.

We subsequently addressed inaccuracies in the reports that are generated by CFM. There have been noted improvements in the reports. However, more time must be devoted to continue to improve the reliability of the reports.

MANAGEMENT RESPONSE

-6-

Assistant Inspector General for Audit

As mandated by law, ATF must offer electronic filing of COLAs and formulas by October 2003. We are in the early stages of planning for this, and it appears that we may need to create a new database to receive, process and store data on COLA and formula applications. At a minimum, we will need to update CFM. We plan to request funds for this effort and other electronic Government initiatives in our FY-02 budget. A new database would be built with CFM's shortcomings in mind.

In March 2000, we hired a Program Analyst whose function is to maintain CFM and perform error resolution on the data it contains. This has also made a significant improvement in the timeliness and reliability of the data. Future plans include hiring an additional Program Analyst to assist with this work.

One of the functions of the new Quality Assurance/Output Team is to ensure that we can account for all the paper that flows through the COLA process. They perform routine audits of CFM and the files and this has improved our ability to track applications.

COLA processing turn-around times have also improved since this audit was performed. In 1999, we received 68,000 COLA applications and turned 75 percent of them around in 9 calendar days. In 2000, we received 74,000 COLA applications and turned 70 percent of them around in 9 days. In recent years processing time has been affected by the loss of experienced employees, time devoted to training new employees (7 of the current 13 COLA specialists have 2 years of experience or less), inability to fill supervisory positions (one which has been vacant since 1997 has recently been filled by an employee set to report June 3, 2001), and by a steady increase in the number of applications (we received almost 10,000 more applications in 2000 than in 1997).

MANAGEMENT RESPONSE

Assistant Inspector General for Audit

4. The ATF Director should ensure that COLA program documentation (applications for approval, notices of denial, and related documents) is maintained in accordance with ATF Order 1345.1, *Records Management Program and Records Control Schedule*. The Order requires original paper label applications to be retained 25 years. If this retention period is considered unrealistic or unreasonable, the Order should be modified.

In your draft report you express concern that COLA personnel are not maintaining documentation in support of expedited COLA requests and that as a result ATF management does not have an effective mechanism to monitor expedited COLA requests nor identify members of the alcoholic beverage industry who may be abusing the expedite process. Part of the March 2000 BAST reorganization involved the creation of a Customer Service/Input Team. This team is responsible for, among other things, screening and sorting all applications. As part of this function, they review, approve/deny and track all requests for expedited label approval. During the past year we have used this information to document industry members and the number of requests that they make. The trends we noted were that third party label service providers who hand carry applications to ATF make the vast majority of expedited requests. A small number of industry members were making frequent requests. We have addressed this concern with the third parties, however they are disinclined to reduce the number of expedited requests they make as they state that they are providing a service for a fee and must comply with their customers' requests. In addition, some charge an additional fee for expedited requests and reducing the number of expedited requests would have an impact on their income.

MANAGEMENT RESPONSE

We have also published stricter guidelines and more stringent criteria for when we will approve an expedited request. This has also served to reduce the number of expedited requests to some degree.

Regarding retention of approved and rejected COLAs, ATF does have 25 years of original approved COLAs located at Washington National Records in Suitland, Maryland. Also, as part of the March 2000 BAST reorganization, we began retaining all ATF copies of rejected COLAs in a central file for use by our Customer Service specialists when responding to inquiries regarding rejected applications. We intend to maintain these files for 3 to 5 years. We also intend to amend ATF Order 1345.1 *Records Management Program and Records Control Schedule* to clearly reflect this retention period for rejected COLAs.

5. **The ATF Director should consider a user charge to recover the costs to effectively administer the Certificate of Label Approval program.**

ATF has considered adoption of user fees for COLAs and formulas based on past Administration and OMB requests. ATF has taken the position that the excise taxes collected for alcohol already compensate the Government for the services that ATF provides to the regulated industry. For FY-00, ATF collected approximately $6.9 billion in alcohol-related taxes. This amount far exceeds ATF's budget for alcohol-related enforcement. Our position is in part based on our interpretation of OMB Circular A-25 which notes as a matter of policy that user fees should not be charged in cases where the collection of an excise tax currently finances the Government services that benefit the specific individuals. ATF feels that user fees for COLAs and formulas would in essence be a tax increase imposed on the alcohol industry. Further, ATF's authority in the Federal Alcohol Administration Act to administer the COLA process does not include the

MANAGEMENT RESPONSE

express authority to impose user fees. A change in statute would be required.

ATF also feels that approval of COLAs and formulas is not a true "service," as industry members do not have a choice in whether or not to come to us. Federal law requires an approved COLA before alcohol beverages can enter interstate commerce.

User fees for COLAs and formulas have been proposed several times in the past decade and ATF has in fact spent considerable time and effort planning for the collection of user fees. In the 1990's, Vice President Gore's National Performance Review group considered and subsequently rejected the idea. Each time user fees for COLAs and formulas have been proposed it has eventually been dropped. It is likely that any subsequent initiatives to implement user fees will not be successful.

ATF recognizes the need to continue to address and make improvements to the COLA process. In the past 2 years ATF has taken internal steps to devote additional resources, both financial and human, to the COLA process.

In 1999, $60,000 was spent to update the CFM database in association with the BAST reorganization. The BAST reorganization itself, which was implemented in March 2000, represented significant financial and human resources devoted to improving the COLA process.

In July 2000, ATF elevated the work group responsible for the COLA process from a branch within a division, to a separate division. At this time, 8 full time positions were moved from other alcohol divisions and allocated to the new division. This brings the number of authorized personnel in the Alcohol Labeling and Formulation Division up to 39.

MANAGEMENT RESPONSE

-10-

Assistant Inspector General for Audit

In August 2000, ATF contributed half of the $30,000 fee to participate in the American Customer Satisfaction Index independent survey to determine alcohol industry members' level of customer satisfaction with regards to the label approval process. The results will be used to further improve the process.

In conclusion, ATF does not feel that user fees are a viable option. To compensate, ATF will continue to take steps to apply resources internally to improve the COLA process.

If you have any questions regarding the Certificate of Label Approval Program, please contact Mr. James Zammillo, Chief, Policy and Programs Coordination Staff, Office of Alcohol and Tobacco, at 202-927-5000.

Bradley A. Buckles

ADDENDUM TO MANAGEMENT RESPONSE

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, DC 20226

ASSISTANT
DIRECTOR

FEB 28 2001

804000:SBS
8100

MEMORANDUM TO: Assistant Inspector General for Audit

FROM: Assistant Director
Office of Alcohol and Tobacco

SUBJECT: Addendum to February 7, 2001
Memorandum Regarding Draft Report on
the Bureau of Alcohol, Tobacco and
Firearms Certificate of Label Approval
Program, Dated December 5, 2000.

This addendum refers to your recent request for additional information on Finding 2 in the Draft Report (Number OIG-99-009), Improvements Needed in the Administration of the Bureau of Alcohol, Tobacco and Firearms' Certificate of Label Approval Program.

2. **The ATF Director should ensure that detailed operating procedures are developed to ensure pre-import samples are processed in accordance with ATF policies and regulations. The procedures should identify when applicants are required to submit a second alcoholic beverage sample for laboratory analysis. The procedures should also provide for supervisory review of formula specialists' work to ensure they properly analyze and convey pre-import laboratory tests results to applicants.**

We agree that detailed operating procedures regarding the pre-import process do not currently exist. ATF will develop and publish procedures that identify when applicants must submit a second sample for laboratory analysis and a process to ensure that pre-import laboratory test results are properly communicated to applicants. ATF will publish these procedures by February 2002.

WWW.ATF.TREAS.GOV

ADDENDUM TO MANAGEMENT RESPONSE

Assistant Inspector General for Audit

If you have any questions regarding this addendum, please contact Mr. James Zammillo, Chief, Policy and Programs Coordination Staff, Office of Alcohol and Tobacco, at 202-927-7953.

for Arthur J. Libertucci

MAJOR CONTRIBUTORS TO THIS REPORT

Northeastern Region

Donald Benson, Regional Inspector General for Audit
Dennis Deely, Audit Manager
Kevin Donahue, Auditor
Tracy Dunn, Auditor
Barry Bruner, Auditor

REPORT DISTRIBUTION

Department of the Treasury

Under Secretary of the Treasury for Enforcement
Office of Strategic Planning and Evaluations
Office of Accounting and Internal Control

Bureau of Alcohol, Tobacco and Firearms

Director
Assistant Director, Alcohol and Tobacco
Deputy Assistant Director, Alcohol and Tobacco
Chief, Alcohol and Tobacco Programs Division
Assistant Director (Inspection)

Office of Management and Budget

OIG Budget Examiner